

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:) Chapter 11
)
EASTERN LIVESTOCK CO., LLC) Case No. 10-93904-BHL-11
)
 Debtor.) Hon. Basil H. Lorch III

**TRUSTEE'S OBJECTION TO MOTION FOR RELIEF FROM STAY AND
ABANDONMENT OF PROPERTY**

James A. Knauer, the chapter 11 trustee appointed in this case ("Trustee"), by counsel, objects to the Motion for Relief From Stay and Abandonment [Dock. No. 60] ("Motion") filed by Republic Bank & Trust Company ("Republic") on December 13, 2010. Republic seeks relief from the automatic stay and abandonment from the Debtor's estate of the real property used as Debtor's headquarters and commonly known as 135 West Market Street, New Albany, Indiana 47150 ("Building"). Because Republic has not demonstrated that Debtor lacks equity in the Building and because the Trustee can provide Republic with adequate protection of its interest in the Building, Republic is not entitled to relief from stay or abandonment. In support of the Trustee's Objection to Motion for Relief From Stay and Abandonment of Property (this "Objection"), the Trustee states:

1. Substantially all of Debtor's currently available books and records are located in the Building. These books and records are primarily in paper form and occupy both stories of the Building nearly from floor to ceiling.

2. The Trustee's ability to locate and preserve estate assets will be materially compromised should the Motion be granted. If the Trustee were required to leave the Building, he would have to stop his analysis of the Debtor's records and his ongoing discovery of the Debtor's assets and potential causes of action and instead try to organize and pack two floors of

records so that they could be found after a long and expensive move at substantial cost and expense to the estate. In contrast, Republic has not provided any evidence that the Building, or the Trustee's continued use of the Building, is causing any decline in value of the Building.

3. Republic asserts that the liquidation value of the Building is about \$470,000 and that Debtor owes more than this value but provides no evidence of either of these assertions.

4. The Trustee is maintaining the Building by keeping the utilities on and the Building insured, and thus Republic's interest in the Building is adequately protected.

5. There is no cause to grant relief from stay for a lack of adequate protection, because there is no evidence the Building is declining in value. "Adequate protection is never necessary unless there is a threat to the value of the encumbrance." *In Cambridge Woodbridge Apts., LLC*, 292 B.R. 832, 842 (Bankr. S.D. Ohio 2003).

6. The Trustee does not waive and explicitly preserves his rights to contest the validity and extent of Republic's rights in and to the Building.

WHEREFORE, the Trustee respectfully requests that the Court deny the Motion and grant the Trustee all other just and appropriate relief.

Respectfully Submitted,

BAKER & DANIELS LLP

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CERTIFICATE OF SERVICE

I hereby certify that on January 7, 2011, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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